Extra!

First Full Report on Historic Security Decision Unreported in Most of The Press

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Ninth Circuit Tackles Issue Supreme Court Dodged in Peters Case
Loyalty-Security Regulations Declared Unconstitutional
When Hearings Are Based on Anonymous Accusation

The Faceless Informer Struck Down At Last

When the Supreme Court dodged the issue of secret informers in the *Peters* case last June, the Department of Justice was as jubilant as defense lawyers were gloomy. This was the second time in five years the issue had been before the Court without eliciting an opinion on it, and it looked as if another five years might pass before someone else was found intrepid enough to challenge the practice of anonymous accusation in loyalty-security proceedings. But now the Ninth Circuit Court of Appeals in San Francisco has created something of a crisis within the Department. That court (in *Parker* v. *Lester*) has just met the issue squarely, holding unconstitutional loyalty-security regulations which permit the use of faceless informers.

The decision granted seven seamen and three longshoremen an injunction in which the Coast Guard was forbidden to blacklist them. The case involved regulations issued under the Magnuson Act of 1950 which authorized the Coast Guard to bar "security risks" from maritime and waterfront employment. But the principles laid down by the decision (see the passages quoted in boxes on this page and page four) equally affect hearing procedures now used by the government not only in Federal employment and in defense plants but also in passport applications and in conscientous objector cases. The Court held in effect that it was a violation of due process to deprive a man of his livelihood, reputation or other rights on the basis of evidence not fully disclosed to him. The Department of Justice has 90 days in which to take an appeal to the Supreme Court, and it is believed here that it will have to risk final test or see its entire security program undercut. Additional pressure may be exercised if counsel for the victorious West Coast workers, Gladstein, Andersen, Leonard and Sibbett found some way to file suit—as they threaten to do—for recovery (from the government or private shipping companies) of back pay lost during the five years these security cases have been in litigation.

Changing Climate of Opinion

A changing climate of opinion is strikingly evident in the new decision. Two years ago the same court (in *U.S.* v. *Gray, 207 F.2d 237*) did uphold the dismissal of indictments against three seamen for taking jobs without security clearance. It ruled that the seamen had not been "adequately informed" of the charges against them. But the Court did not then require full disclosure. At that time the Court frowned on "revelation of the names of the informants" as likely "to dry up the sources of information." Now it has reversed a District Court for adopting the same rule it promulgated in 1953. The lower court held that the complainants had a right to an adequate summary of the charges against them *except where the resume might disclose the identity of the informant.* Now the Circuit Court 2-to-1 rules against any such exception because this "as a practical matter gives the Coast Guard *carte blanche* to withhold substantially any information the officials may choose to keep from the seamen."

Is Secret Talebearing Necessary?

"Is this system of secret informers, whisperers and talebearers of such vital importance to the public welfare that it must be preserved at the cost of denying to the citizen even a modicum of the protection traditionally associated with due process? . . .

"In the procuring of evidence for the prosecution of criminal cases, the Federal Bureau of Investigation has shown no signs of collapsing because proof of guilt must be furnished by witnesses who must appear for confrontation and cross-examination. . . .

"It may be assumed that this determination [forbidding the use of derogatory information from undisclosed sources] will remove from the investigative agencies, to some degree, a certain kind of information and that, in the future, some persons will be deterred from carrying some of these tales to the investigating authorities. It is unbelievable that the result will prevent able officials from procuring proof any more than those officials are now helpless to procure proof for criminal prosecutions.

"But surely it is better that these agencies suffer some handicap than that the citizens of a freedom loving country shall be denied that which has always been considered their birthright. Indeed, it may well be that in the long run nothing but beneficial results will come from a lessening of such talebearing. It is a matter of public record that the somewhat comparable security risk program directed at government employes has been used to victimize perfectly innocent men."

—U S. Court of Appeals in Parker v. Lester.

As recently as September of last year, the same Judge Pope who wrote this new decision held in a conscientous objector case (*White* v. *U.S., 215 F.2d 782*) that it was "a matter of common knowledge" that the FBI would be handicapped if it could not protect its sources of information. Now Judge Pope not only scoffs at this argument (see box on this page) but says it might be a good idea if some of this kind of talebearing *was* discouraged. Judge Healy, who participated in these earlier decisions, merely noted in a one paragraph dissent that the question had been dodged by the Supreme Court in the *Peters* case and that any reversal should be left to that tribunal.

There are other ways in which this decision would put a spoke in the callous wheels of the security program. It criticizes the practice, common to most agencies, of discharging a man first and then giving him some sort of hearing. The ac-

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Few Agree On What Automation Is, but None Oppose It

Labor Fears Short-Term Unemployment; Business, A Labor Shortage

By John B. Stone

A Congressional subcommittee wound up 15 half day sessions in the old Supreme Court chamber of the Capitol last week after about 25 expert witnesses had talked about automation for a total of some 30 hours. There was no agreement on what automation is or what it would do to the U. S. economy and labor force.

Though automation is supposed to have a revolutionary effect on technology, the hearings were sparsely attended. The subcommittee chairman, Congressman Wright Patman (D. Tex.) was the only member of the subcommittee in regular attendance. He told a handful of bored newsmen he found only one point of agreement—everybody was for automation. But where industry was enthusiastic, labor was apprehensive.

Industry spokesmen like Ralph J. Cordiner of General Electric, D. J. Davis of Ford, and Don G. Mitchell of Sylvania Electric Products insisted that automation is not something new, but merely a continuation of mechanization. They agreed that while it would displace workers on the production line, it would create new jobs elsewhere, especially in service industries.

They pictured labor "liberated" from the machine, and an American utopia of unlimited production. They suggested that Congress offer big business special tax inducements to enable it to invest in more mechanical brains. They even went so far as to predict so great a demand for U. S. goods in the near future that there would be a shortage of workers unless industry grew more automatic. They said there was already a tremendous shortage of engineers and technicians.

Why Labor Is Uneasy

CIO President Walter P. Reuther and President James B. Carey of IUE defined automation as a "second industrial revolution" because it substitutes control of machines by other machines for control of machines by men.

They supplied figures showing that while production—and profits—rise sharply in automated operations, the number of production workers drops dangerously. They doubted the ability of industry to absorb, forever, in non production lines and new industries, the workers laid off when machines take over direction of production.

All the labor spokesmen agreed the concept of full employment must be retained to create purchasing power for consumption of the greater new production. A 30 to 35 hour week with no cut in take-home pay, longer vacations, earlier retirement of workers, were some of the suggested long range cures. To meet any immediate automation unemployment, they suggested a big housing, educational, hospital, public roads and public works program.

President Joseph A. Beirne, of the CIO Communications Workers, told the subcommittee the number of telephones in the U.S. increased 533% from 1920 to 1954 (8.1 million to 43.3 million) and the number of average daily calls increased 382% while the number of all telephone employes went up only 152%. He did not think continued expansion would create many new jobs in his industry. He warned 200,000 would lose their jobs in the Bell System in the next 10 years unless present policies are changed.

As exchanges were changed to dial operation in Michigan from November, 1949, through December, 1954, employment of operators dropped from 1,414 to 273. More than half the women (761) were laid off, 48 transferred to other jobs with the same local company, 309 transferred to other companies, and 8 pensioned. He accused A.T.&T. of withholding such figures.

President W. P. Kennedy, of the Brotherhood of Railroad Trainmen, complained that workers whose whole life has been railroading are simply laid off wherever automated freight yards are installed.

But Chief Engineer S. R. Hursh, of the Pennsylvania Railroad, devoted almost his entire time to a glowing description of the new $34 million Conway Yard near Pittsburgh, biggest in the world, where radar, mechanical "brains," and other gadgets will do the work of hundreds of men with only a few operators. His only reference to the problem of displaced workers came when he said, "If what is done leads to more efficiency and more economy . . . it makes more secure the employment of all employes."

Hursh's testimony brought a charge by Patman that the railroads are "not recognizing their responsibilities." President William T. Farley, of the Association of American Railroads, promised Patman the problem of laid off workers would be considered at the group's meeting in Chicago this month.

Where Automation Is Coming

Some trends were revealed by the hearings. Automation will develop fast in some industries like electrical equipment and electronics. It will grow stronger in those industries where it already is strong: petroleum, chemicals, steel and autos. But no automated assembly line is in sight in the auto industry. The new technique will be reserved for component parts.

In most industries, development will be slowed by three important factors: (1) the huge cost of automated equipment, (2) the rapid development of new mechanical marvels which often make "wonder" machines obsolete before the long process of installation is completed and, (3) automation equipment for mass industry, so far, can produce only identical products, and can't be changed to make various models.

But even with fast progress in only a few industries automation may cause economic dislocation. Edwin G. Nourse, first chairman of the President's Council of Economic Advisers under Truman, warned, "Unless the responsible executives seek to integrate their operation to the prosperity of the whole economy . . . our economic process will distintegrate into wasteful struggles for individual or group short-run advantage."

Too Little Respect for Teachers

The famous scientist, Vannevar Bush, was asked by Chairman Patman during the automation hearings why the USSR is going to graduate 45,000 engineers and 1,600,000 technicians next year while the U.S. will graduate only 27,000 engineers and 50,000 technicians.

"The first thing we need to do," Bush replied, "is to raise the pay of primary and secondary teachers. But more than that," he added after a moment's pause, "we have lost something since the days of the little red schoolhouse. We must create respect for our teachers, restore their dignity.

"I don't want to see us adopt the Russian system," Bush said, "but there they do have a deep respect for men of culture."

If Only God Were Automated

During the automation hearings, James B. Carey of the IUE, was subjected to sharp questioning by Senator Ralph Flanders (R. Vt.), himself a famous machine tool manufacturer. The latter was trying to prove that mechanization of any kind always creates new jobs.

Carey drew a laugh and took the pious Vermonter aback with this anecdote. "There was a meeting of the great minds of industry at Schenectady—I won't name the company—about the first of the year," Carey related. "It was decided that only the surface of automation had been scratched. One of the speakers at the conference said that if God had only had some of the automation talent there present, the time of the Creation could have been cut to five days."

Schenectady is the home of General Electric.

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Talk in and Around the Capitol: Mobilizing Religion Again

Welcoming A Revolutionary; Acheson Finds Peace Unmentionable

The flags were out on Pennsylvania avenue all last week to hail a visitor who had successfully practiced the overthrow of a duly elected government by force and violence and shot his way into the United Nations. But though he was paraded triumphantly past the Justice Department, no Smith Act warrant was served upon him nor was recognition denied him at the State Department. We refer, of course, to our honored visitor, Castillo Armas of Guatemala. The festivities with which he was greeted may serve to underscore the fact that our government stands foursquare for free elections, except in countries where we don't like the governments the people happened to vote for, in which case second hand planes and leftover bombs may be obtained here on discreet application.

Bipartisan Pot and Kettle

If Dean Acheson's articles on foreign policy in *Harper's* for November was intended to be one of the big opening guns for the 1956 campaign, it certainly misfired. Mr. Acheson has his admirable qualities, but his article, like his appearances as Secretary of State before Congressional committees, exuded an unfortunate air of smug superiority. The article is noteworthy chiefly for what it does not say. He justifiably attacks his successor, Mr. Dulles, for the doctrine of "massive retaliation" but that is ancient history. This doctrine, like Mr. Dulle's "liberationism" (which Mr. Acheson does not criticize), was abandoned by the Eisenhower Administration. Mr. Acheson gives it no credit for this, nor for making peace in Korea, nor for keeping out of war in Indochina. Though anxious to claim all that is good in foreign policy for the Democrats, he makes no mention of the role played by Adlai Stevenson and Senator George in helping to steer Eisenhower out of war over the Formosa straits last winter and toward the meeting at the summit last spring. Mr. Acheson seems emotionally wedded to the cold war, the arms race and "negotiation from strength" and these stale policies are no recommendation for 1956. In patting himself heartily on the back, Mr. Acheson omits from the fulsome catalogue of his own past achievements any mention of how he initiated German rearmament, perhaps because this was launched "without consultation or warning" to our allies, and this high-handed and unilateral way of carrying on foreign policy is one of the points on which the Acheson kettle calls the Dulles pot ever so black.

The Tovarisch Two

Mr. Dulles at Geneva has magnanimously lifted the current restrictions which make U.S. passports not good for use in Soviet countries. This is advertised as a big step forward to freedom of travel, and the Soviets are urged to reciprocate. But what is the use of lifting the restrictions on the use of passports while maintaining the restrictions on getting a passport? The U.S. is at present the only Western country which refuses passports to its citizens and visas to would be visitors on political grounds. This affects not only the Soviet bloc but our own allies. Not a little resentment has been caused in England, for example, by the humiliating loyalty-security type questions asked of Britishers who want to visit this country. In the past ten years we have imitated the Russian system of making travel a privilege only to be accorded those whose views are satisfactory to the regime. The Russians since Stalin died have been liberalizing their attitude, but ours—as shown by Dulle's latest actions in passport cases—are as rigid as ever. This is an issue on which Britain and France, which still honor the traditional freedoms, ought to gang up at Geneva on the two totalitarians—Molotov and Dulles.

Uh, Would You Mind Repeating That Again, Professor?

"To the 'intellectual' as a rootless Bohemian, an alienated man, a Jacobin, a presumptuous innovator, a person who makes excessive claims for defecated [sic] rationality without allowing any place for veneration or tradition or moral worth, I am profoundly opposed. But to the real works of the mind, elevated power of intellect, the scholar, the philosopher, the bookman, the clerisy [sic], the union of right reason with humility and duty, I am humbly dedicated. It is because I do not want the thinking American to sink into the condition of an ideologue that I venture to criticize the drift of the American intellectual."

—Dr. Russell Kirk, author of "The Conservative Mind," addressing the Second National Conference on Spiritual Foundations in Washington last week, a gathering which also heard (among other holy men, divines and gurus) from Vice President Nixon, Admiral Radford, and Atomic Energy Commission Chairman Lewis L. Strauss.

Hitler Found Him Slippery, Too

From Saragossa, Spain, David Darrah in the *Chicago Tribune* (Nov. 1) describes the new $10,000,000 600-mile pipeline the U.S. Navy is building from the Atlantic to the Pyrenees to fuel U.S. air bases in Spain. Darrah says this will free the U.S. from dependence on Moroccan bases and adds, "The Spanish bases are closer for sending planes across Europe. They would be invaluable should any situation arise such as a disagreement with some other members of NATO over the expediency of atomic warfare." In other words, if Britain or France in fear of atomic destruction vetoes the use of bases on their soil for an atomic attack on the Soviets, the veto can be circumvented by using Spanish bases. Western Europe could thus be plunged into atomic war against its wishes. . . . But what makes us certain that Franco would be any more willing to permit u e of bases in Spain? The same dispatch says we are delivering him $350,000,000 worth of military equipment, but Franco is Europe's oldest "neutralist." He never gave Hitler or Mussolini more than a token Blue Legion. They, too, supplied him heavily with arms, but Spain kept out of World War II as it kept out of World War I. Franco's record suggests that he would be as unwilling to risk Soviet retaliation in a new war as he was to risk Anglo-American bombing in the last one.

Portrait of An Eminent Divine Repairing Our Spiritual Foundations

"Clem D. Johnston, Chairman of the Board of the U.S. Chamber of Commerce, denounced yesterday the trend toward smaller profits.

"'It is striking at the rest of our whole economic system by depriving it of motivating force,' he told the Second National Conference on Spiritual Foundations here.

"He blamed the trend on a popular reaction 'against the whole ethic of acquisitive man.' Not only labor leaders, New Dealers and Fair Dealers are running down 'material betterment,' he said, but also some preachers in the Bible Belt. . . .

"In his address on 'The Spiritual Responsibility of American Business and Industry,' at the final conference session at the Sheraton-Carlton Hotel, Johnston also criticized orthodoxy both in business and religion.

"The Christian religion as taught by Jesus and the American competitive business system are 'the two most revolutionary forces in the world today,' he declared. Too many Christians respect Jesus, he said, but balk at practicing Christian love. . . ."

—Washington Post and Times-Herald, Oct. 27.

To sum up, if we understand the Mahatma correctly, what we need is to encourage the practice of Christian love by allowing a higher rate of profit.

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Decision Also Sideswipes Use of Attorney General's List As Unfair

(*Continued from Page One*)

cused, the Court objects, "is given no opportunity to participate in the process of examining the facts which may have a bearing upon this initial determination." The decision also dismisses the familiar government plea, so often heard in passport cases, that the complainants had not exhausted their administrative remedies. The Court held that this did not apply where the proceedings are not governed by the Administrative Procedures Act. It also says of the appeals machinery set up by the Coast Guard, "It is apparent that the so-called appeal before the appeals board is no remedy in fact or in law." For one thing the decisions of the appeals boards are only advisory, like those of the passport appeals board at the State Department.

Finally the Court takes a sideswipe at the Attorney General's list. The Court says that "the screening of persons who are security risks is permissible as a matter of substantive due process," i.e., the screening itself is not a violation of fundamental rights so long as the procedure used is fair. But in a footnote the Court says it does not think this reasoning applies to that portion of the Coast Guard regulation which provides for denial of clearance if the applicant "is or recently has been a member of, or affiliated with, or sympathetically associated with" any organization on the Attorney General's list. The Court says that since the regulations do not require "proof of membership with knowledge of the character of the organization" and since applicants "may have joined unaware of the organization's activities and programs" it may be unlawful to bar a man "for mere membership." It looks as if the Department of Justice, which prefers to evade these issues, will be forced to ask the Supreme Court to pass upon them, particularly on that of the faceless informer, the ugliest legal landmark of this period.

Every Worker's Rights Endangered

". . . The rights of the individual here considered are also fundamental in the sense that if they are limited, qualified or non-existent in the case of merchant seamen, they can be modified or limited or held non-existent as applied to other persons . . . it is plain that many persons other than seamen would be just as susceptible to security doubts. . . . If these men, engaged in ordinary tasks of earning a livelihood, may be denied the usual measure of due process, then multitudes of others may be dealt with in like manner.

"Furthermore, in considering the public interest in the preservation of a system under which unidentified informers are encouraged to make unchallengable statements about their neighbors, it is not amiss to bear in mind whether or not we must look forward to a day when substantially everyone will have to contemplate the possibility that his neighbors are being encouraged to make reports to the FBI about what he says, what he reads and what meetings he attends.

". . . The time has not come when we have to abandon a system of liberty for one modelled on that of the Communists. Such a system was not that ordained by the framers of our Constitution. It is the latter we are sworn to uphold."

—U S. Court of Appeals in Parker v. Lester.

Geneva In A Nutshell

On the Middle Eastern Crisis: Russia is still willing to risk war in the area in order to have a voice in its destiny. The U. S. is also willing to risk war there rather than grant this by asking Russia to participate in a 4-power guarantee of Arab-Israeli peace. But it is now too late to exclude Russia from the Middle East. The only question is whether the area is to be torn apart by Big Power rivalry or stabilized by a Big Power agreement.

On Germany: The Powers are further from agreement than ever. They would do well to heed the warning given by the anti-Nazi hero, Pastor Martin Niemoller, at a Labour Party Peace Meeting in Margate, London, which was not covered by the American press.

According to the Oct. 14 issue of the London *Peace News*, Niemoller predicted that there would soon be 20 or 24 German divisions, half armed by the Americans in the West, half by the Russians in the East. He said that once armed the armies would unite; that neither East nor West would interfere for fear of starting World War III; that the German people would then say they had been saved again by military power "and in a moment of time Germany could go back to 1932: one nation, one Fuhrer, one empire. Then all hope of a new and better Germany is gone. That," said Pastor Niemoller, "is the vision that I see."

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